

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUMMONS FOR JUDGMENT NO.545 OF 2006
IN
SUMMARY SUIT NO.1043 OF 2006

Bank of Maharashtra

...Plaintiffs

v/s

Mr

Shivprasad

Shasikant

Date

and

ors.

...Defendants

Mr

N.K.

Kamat

with

Ms

Prachi

Shetye

for

Plaintiffs.

None

for

Defendants.

CORAM : D.K. DESHMUKH J.

DATE : 31ST JANUARY 2007.

P.C.

:-

1. The plaintiff Bank has filed this suit for recovery of the loan which was advanced by the Bank to the defendant No.1 of which the defendant Nos.2 and 3 were guarantors. Summons for judgment is taken out only against defendant No.1 because it is only defendant No.1 who has filed appearance after being served with writ of summons. The defendant Nos.2 and 3 have not filed their appearance though they are served with the writ of summons. The only defence raised by the defendant No.1 is that the suit is barred by the law of limitation, but the documents on record reveal that the loan was advanced in the year 1997, there are acknowledgments signed by the defendant No.1 from time to time. As the acknowledgment is signed by him on 14th August 2004, the plaint has been lodged on 20th March 2006. Therefore, the suit is within limitation. No other defence has been raised by the defendant No.1. Therefore, he is not entitled to leave to defend. The plaintiffs, on the other hand, are entitled to a decree against defendant No.1. So far as the defendant Nos.2 and 3 are concerned, the learned counsel appearing for plaintiffs states that the defendant Nos.2 and 3 have been served with writ of summons on 6th May 2006, they have not

filed their reply. Therefore, as per the provisions of Order XXXVII of C.P.C., the plaintiffs are entitled to a judgment even against defendant Nos.2 and 3. Summons for judgment is therefore granted, suit of the plaintiffs is decreed against all the three defendants in terms of prayer clause of the suit. Refund of court fees as per rules.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.
